

**UNITED STATES JUDICIAL PANEL
on
MULTIDISTRICT LITIGATION**

**IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION**

MDL No. 2543

TRANSFER ORDER

Before the Panel:* Defendant General Motors LLC moves under 28 U.S.C. § 1407(c) to transfer the action listed on Schedule A (*Hammatt*) to MDL No. 2543. Plaintiffs oppose the motion.

After considering the argument of counsel, we find this action involves common questions of fact with the actions previously transferred to MDL No. 2543, and transfer under 28 U.S.C. § 1407 may serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The actions encompassing MDL No. 2543 involve factual questions arising from an alleged defect in certain General Motors vehicles that causes the vehicle's ignition switch to move unintentionally from the 'run' position to the 'accessory' or 'off' position.¹ *See In re: General Motors LLC Ignition Switch Litig.*, 26 F. Supp. 3d 1390, 1391 (J.P.M.L. 2014).

Plaintiffs in *Hammatt* allege their 2014 Chevrolet Cruze suffered an electrical system failure, causing the lights inside the vehicle to flicker on and off, the driver to lose the ability to steer for a brief moment, and the side curtain airbags to prematurely deploy. In opposing transfer, plaintiffs argue, *inter alia*, that (1) transfer would cause plaintiffs prejudice, and (2) the incident involving their vehicle—which experienced premature airbag deployment—is factually distinct from the incidents involving the vehicles at issue in MDL No. 2543—which involved non-deployment of airbags.

As an initial matter, we do not find plaintiffs' claims of prejudice to be persuasive. We have found that, while transfer of a particular action might inconvenience some parties to that action, transfer often is necessary to further the expeditious resolution of the litigation taken as a whole. *See In re: Crown Life Ins. Premium Ins. Litig.*, 178 F. Supp. 2d 1365, 1366 (J.P.M.L. 2001).

The question of whether plaintiffs' claims that their vehicle experienced premature airbag deployment are properly included in MDL No. 2543 is a close one. In plaintiffs' original complaint, they alleged that their vehicle's system failure was caused by a number of defects, including an

* Judge Marjorie O. Rendell and Judge Lewis A. Kaplan did not participate in the Panel's decision.

¹ While MDL No. 2543 initially included only actions asserting economic damages, it has been expanded to include personal injury and wrongful death actions.

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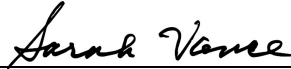
ignition switch defect. Plaintiffs since have amended their complaint to remove the allegation that the ignition switch defect caused the airbag deployment, and have stated that they will further amend their complaint to remove additional allegations relating to the ignition switch defect. The current complaint alleges that, just prior to the airbag deployment, “the steering wheel locked and control of the vehicle was lost as if the ignition key had been ‘turned off’ momentarily,” though plaintiffs since have clarified that the car did not lose power. *Hammatt* First Am. Compl. at ¶109; Pl. Letter at 2, MDL No. 2543 (J.P.M.L. Dec. 2, 2015), ECF No. 868. Plaintiffs also state that “no-one knows if the ignition switch was the defect in the vehicle.” Pl. Letter at 2. Further, plaintiffs allege, like plaintiffs in many actions in MDL No. 2543, that General Motors demonstrated a “general disregard for the safety of the general public,” including as to the ignition switch defect. *See Hammatt* First Am. Compl. at ¶177(a); Second Am. Compl. at p. 209, MDL No. 2543, Case No. 1:14-md-02543, ECF No. 1061-1 (“Contrary to its Barrage of Representations about Safety and Quality, [General Motors] Concealed and Disregarded Safety Issues as a Way of Doing Business.”). And plaintiffs acknowledge that they are seeking discovery relevant to defendant’s alleged disregard of safety of the general public. *See* Pl. Letter at 2 (stating they seek information “related to the fact that [General Motors] has a history of hiding known defects in vehicles and then ‘covering-up’ the repairs not allowing the public to be fully informed”). These allegations and statements suggest that there would be some overlapping discovery between *Hammatt* and MDL No. 2543. Indeed, despite their insistence that they are not seeking “confidential discovery related to the MDL litigation issues,” plaintiffs specifically ask the Panel “to issue a conditional coordination order for the discovery of ignition switch failures, if needed, to allow the defendant access to that discovery, if needed, in this matter.” Pl. Letter at 2; Pl. Obj. To Tr. Order at 8, MDL No. 2543 (J.P.M.L. Sep. 1, 2015), ECF No. 797.

In these circumstances, we find that the transferee court is in the best position to determine whether *Hammatt* is sufficiently related to the actions in MDL No. 2543 to remain in centralized proceedings. If the transferee judge determines after close scrutiny that remand of any claim is appropriate, he can suggest that it be remanded with a minimum of delay. *See* Panel Rules 10.1-10.3. Indeed, the transferee court has been prompt in addressing arguments that a particular action is not appropriate for continued inclusion in MDL No. 2543. *See* Suggestion of Remand, MDL No. 2543 (J.P.M.L. Jul. 21, 2015), ECF No. 764 (suggesting Section 1407 remand of an action that, upon inspection of the vehicle at issue, did not involve an ignition switch-related defect).

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IT IS THEREFORE ORDERED that the action listed on Schedule A is transferred to the Southern District of New York and, with the consent of that court, assigned to the Honorable Jesse M. Furman for inclusion in the coordinated or consolidated pretrial proceedings.

PANEL ON MULTIDISTRICT LITIGATION

A handwritten signature in cursive script, reading "Sarah S. Vance", positioned above a horizontal line.

Sarah S. Vance
Chair

Charles R. Breyer
R. David Proctor

Ellen Segal Huvelle
Catherine D. Perry

**IN RE: GENERAL MOTORS LLC
IGNITION SWITCH LITIGATION**

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SCHEDULE A

Central District of California

HAMMATT, ET AL. v. GENERAL MOTORS CO., ET AL., C.A. No. 5:15-01559